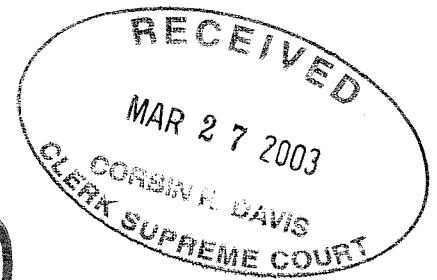




STATE OF MICHIGAN  
COURT OF APPEALS

March 26, 2003

CHRISTOPHER M. MURRAY  
JUDGE



Mr. Corbin Davis  
Clerk, Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909

RECEIVED  
MAR 28 2003

OFFICE OF  
THE CHIEF JUSTICE

RE: File No. 2002-49

Dear Mr. Davis:

Please accept this as our comments on the Supreme Court's proposed rule in file number 2002-49. We strongly urge the Supreme Court to adopt this rule. During the course of our 2002 campaign to retain our seats, we were challenged by Cynthia Gray Hathaway, judge of the Wayne Circuit Court. During that same election cycle, Judge Richard Hathaway was running for reelection to the Wayne County Circuit Court. Thus, there were at least two judges with the last name of "Hathaway" running in Wayne County during the 2002 election cycle, albeit for different positions.

During the September/October 2002 time frame, Richard Hathaway ran newspaper advertisements and had yard signs that simply declared "Vote Hathaway for Judge." Although the advertisements and lawn signs stated in small print at the bottom that it was paid for by the Richard Hathaway Committee, it was hardly discernable. Once these advertisements started running throughout Wayne County and lawn signs popped up sporadically, numerous people approached us indicating that they saw our "opponent's" advertisement or yard sign. Of course, it was not our "opponents" advertisement or yard sign, but it was Richard Hathaway's generic advertisement.

As can be seen from this experience, the voters can be either confused or misled into believing a particular judge is running for office and spending monies in a particular newspaper, magazine or region of the district, when in fact it is an entirely different judge running the advertisement, placing the lawn sign, etc. We believe the proposed rule, which would require the judges' first name to appear before the last name, is not only sound on a common sense basis, but it also ensures that voters know which judge is running which advertisements for which positions and in which community. It will also help to ensure voters know, for example, whether a neighbor is supporting "Richard Hathaway for Judge" or "Cynthia Gray Hathaway for Judge." Thank you for allowing us the opportunity to submit our views and, should you have any questions regarding any of the above, please do not hesitate to contact us.

Very truly yours,

Christopher M. Murray

Very truly yours,

Michael J. Talbot

CMM/vap

# MICHIGAN SUPREME COURT



## *Office of Public Information*

contact: Marcia McBrien | (313) 972-3219 or (517) 373-0129

FOR IMMEDIATE RELEASE

### **JUDICIAL CAMPAIGN CONDUCT RULE PROPOSED; SUPREME COURT SEEKS PUBLIC INPUT**

LANSING, MI, March 12, 2003 - Candidates for judicial office would be required to use their first names "or such other name by which the candidate is commonly known" in advertising, lawn signs, and other written campaign materials, under a proposed rule being considered by the Michigan Supreme Court.

In a March 11 order, the Court called for the public "to comment on the form or the merits of the proposal."

The proposed rule (**file no. 2002-49**) would amend Canon 7 of the Michigan Code of Judicial Conduct, which bars inappropriate political activity by judges or candidates for judicial office.

The proposal states that "All written forms of communication promoting the election of the judicial candidate, including, but not limited to, advertisements, lawn signs, billboards and brochures, shall contain the first name of the candidate or such other name by which the candidate is commonly known."

The proposed rule further provides that "The first or other name of the judicial candidate shall be at least one-third the size of the last name of the candidate and, by itself or with the candidate's middle name or initial, shall immediately precede the last name."

A staff comment to the proposal states that "[t]he rule change would help eliminate confusion among voters as to the candidate's identity, particularly when candidates with the same surname are running for judicial office at the same time."

Other proposed amendments to Canon 7 would clarify that Canon 7B, which currently provides that judges may not solicit or accept campaign funds, applies to all candidates for judicial office, including candidates who are not incumbent judges (**file no. 2003-09**).

Another proposed revision states that “[a] candidate’s committee may not accept funds from any committee that was established in connection with the candidate’s attempt to secure any other judicial or nonjudicial office” (**file no. 2002-50**). The staff comment notes that the current version of Canon 7B “prohibits judicial campaign committees from raising funds before February 15 of an election year and from soliciting more than \$100 per individual lawyer.” These strictures could be evaded, however, because current rules do not explicitly forbid the transfer of funds from one campaign committee to another committee established by the same candidate, the staff comment states.

Other proposed rules released by the Court would:

- amend State Bar of Michigan rules regarding the length of time that an unsuccessful candidate for bar membership must wait before reapplying for admission (**file no. 2002-52**);
- adopt rule changes proposed by the Court of Appeals as part of its delay reduction plan and revise Court of Appeals rules that deal with vexatious proceedings (**file no. 2002-34**); and
- require all court pleadings and other papers prepared for filing in Michigan courts to be in print “no smaller than 12-point type” (**file no. 2002-53**).

The full text of the proposed rules may be viewed at  
<http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm>.

All the proposed rules will be considered at a public hearing to be scheduled by the Supreme Court; schedules and agendas for public hearings are posted on the Court’s website at <http://www.courts.michigan.gov/supremecourt>. Comments on the proposed rules may be sent to the Supreme Court Clerk in writing to P.O. Box 30052, Lansing, Michigan 48909, or via e-mail to [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). Comments on a proposal should include that proposal’s file number. The comment deadline is July 1, 2003 for all proposals except file no. 2002-34, for which the deadline is June 1, 2003.

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